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May 13, 2019

Honorable Alison J. Nathan
United States Courthouse
40 Foley Square Courtroom 906
New York, NY 10007

Re: United States v. John Geraci 18-CR-00715

Dear Judge Nathan:

I represent John Geraci ("Mr. Geraci") in the above-referenced case. I write to respectfully request this Court adjourn the current motion schedule and date scheduled for jury trial¹ in light of recent events. Further, in light of the fact that pretrial submissions are due next Monday, May 20, 2019, defense counsel requests this Court schedule a status conference this week at its convenience. This is defense counsel's first request for an adjournment of the trial date. The Government does not object to this request.

Prior to this request, there were two requests for adjournments and both were granted. The first request was made by defense counsel to extend the deadline to file pretrial motions one month because Mr. Geraci was in state custody and counsel was unable to confer with him on potential pretrial motions. This Court adjourned the briefing schedule three weeks. The second request was joined by both parties seeking a two-week adjournment to file pretrial submissions because the parties were actively involved in plea discussions whereby Mr. Geraci received his first written plea offer in this case.

By way of background, at the October 15, 2018 scheduling conference, the Government described the categories of discovery as follows: "There are documents that the government received from the SEC, including emails of the defendant's. There are the returns on email search warrants, not on email accounts associated with the defendant but on other individuals involved in the scheme, including Nicholas Mitsakos and two individuals who worked for him." (ECF. No. 20 p. 5:17-22). At the November 16, 2018 status and scheduling conference, the Government again represented that "there are e-mail [sic] that the government received from the SEC, there are search warrants that were executed on e-mail accounts of other individuals, not Mr. Geraci." (P. 3: 3-5). The Government further represented: "That's the bulk of discovery.

¹ Pretrial submissions are due on May 20, 2019, opposition papers are due on May 28, 2019, and reply papers are due on June 3, 2019. The final pretrial conference is scheduled for July 1, 2019 and jury trial is scheduled to last two to three weeks beginning on July 8, 2019.

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We're scrubbing to make sure there are no bits and pieces that aren't included there. But that is at a minimum the substantial majority of things that are currently in the government's possession, so that's been produced to defense counsel." (P. 3: 11-15). Based in part on the Government's representations, this Court set both a motion schedule and a firm trial date of July 8, 2019.

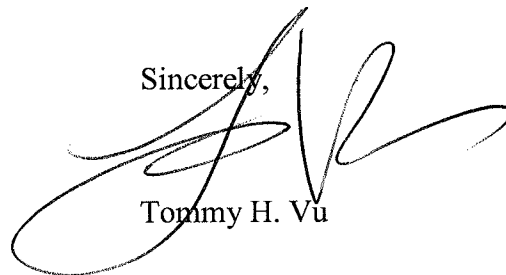
Defense counsel recently discovered the Government's representations on October 15, 2018 and November 16, 2018 were not accurate. In November of 2018, the Government made its first production of discovery consisting of approximately 100,000 documents. Consistent with the Government's representations at that time, there were no search warrants issued specifically for Mr. Geraci's email accounts. However, just last week, the Government made an additional production of discovery consisting of over 222,000 documents. This production contained both search warrants and a subpoena issued specifically for Mr. Geraci's email accounts. The Government indicated it has possessed these documents since last summer, around the time of Mr. Geraci's arraignment. Moreover, the Government has expressed its expectation that additional discovery will be produced in light of its continuing investigation.

Defense counsel needs sufficient time to effectively review the substantial discovery recently produced by the Government and to contemplate the filing of any pretrial motions in light of the new discovery. In order to avoid any additional requests for adjournment, defense counsel hereby requests this Court set a deadline for the production of discovery. Therefore, with Mr. Geraci's consent, defense counsel seeks an adjournment of both the current motion schedule and date scheduled for jury trial. This request does not prejudice Mr. Geraci who is currently on pretrial release and has not had any issues with any of his conditions of pretrial release.

The parties are available for a status conference anytime this week except for Tuesday afternoon, Thursday afternoon, and 3 p.m. this Friday. Given the procedural nature of the requested status conference, defense counsel respectfully requests that Mr. Geraci be permitted to appear telephonically as he lives in Miami, Florida.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tommy H. Vu', is written over the word 'Sincerely,'.

Tommy H. Vu

cc: All Counsel of Record Via ECF